

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CYMEYON V. HILL,

Plaintiff,

v.

JEFF LYNCH, et al.,

Defendants.

No. 2:22-cv-01685-TLN-KJN

ORDER

Plaintiff is a civil detainee proceeding *pro se*. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

I. REQUEST FOR RECONSIDERATION

Plaintiff seeks reconsideration of the February 8, 2023 order denying Plaintiff's motion to proceed in forma pauperis and ordering plaintiff to pay the \$402.00 filing fee within fourteen days. A district court may reconsider a ruling under either Federal Rule of Civil Procedure 59(e) or 60(b). *See Sch. Dist. Number. 1J, Multnomah County v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993). "Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law." *Id.* at 1263.

On December 16, 2022, the assigned magistrate judge recommended that Plaintiff's motion to proceed in forma pauperis be denied, and that Plaintiff be required to pay the Court's

1 filing fee. (ECF No. 13.) Thereafter, Plaintiff filed objections, and the Court adopted the
2 findings and recommendations on February 8, 2023, over Plaintiff's objections. (ECF No. 13.)

3 Plaintiff's application to proceed in forma pauperis, signed under penalty of perjury, was
4 denied because Plaintiff asserted he had received no money over the prior twelve months and
5 alleged he had no cash, but Plaintiff's trust account statement confirmed that as of August 26,
6 2022, Plaintiff had \$5,2211.90 in his account. (ECF No. 8.) Nothing before the Court suggests
7 the denial of Plaintiff's application to proceed in forma pauperis was the result of clear error or
8 was manifestly unjust. There has been no change in the law and Plaintiff provides no new
9 evidence.

10 Rather, Plaintiff claims that he is not required to pay the Court's filing fee because he is a
11 civil detainee. Because Plaintiff is a civil detainee, and therefore not a prisoner within the
12 meaning of the Prison Litigation Reform Act ("PLRA"), he is not required to pay the court's
13 filing fee under 28 U.S.C. § 1915A. *Page v. Torrey*, 201 F.3d 1136, 1140 (9th Cir. 2000). Under
14 the PLRA, prisoners are required to pay the Court's filing fee even if they are granted in forma
15 pauperis status, although they are allowed to pay the fee in installments.

16 On the other hand, non-prisoners, such as Plaintiff, are not required to pay the Court's
17 filing fee if they are granted in forma pauperis status. However, unless the non-prisoner is
18 granted in forma pauperis status, all parties are required to pay the Court's filing fee. 28 U.S.C. §
19 1914(a). Therefore, Plaintiff's motion for reconsideration is DENIED.

20 II. FINDINGS AND RECOMMENDATIONS

21 On March 20, 2023, the magistrate judge filed findings and recommendations herein
22 which were served on Plaintiff and which contained notice to Plaintiff that any objections to the
23 findings and recommendations were to be filed within fourteen days. Plaintiff has not filed
24 objections to the findings and recommendations.

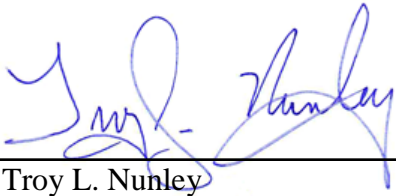
25 The Court presumes that any findings of fact are correct. *See Orand v. United States*, 602
26 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo.
27 *See Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Having reviewed
28 the file, the Court finds the findings and recommendations to be supported by the record and by

the magistrate judge's analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motion for reconsideration (ECF No. 16) is DENIED;
 2. The findings and recommendations filed March 20, 2023, are ADOPTED IN FULL;
- and
3. This action is dismissed without prejudice.
 4. The Clerk of Court is directed to close the case.

DATE: April 14, 2023



Troy L. Nunley
United States District Judge